

REMARKS

Claims 1-41 are pending. In view of the remarks below, reconsideration and allowance of all claims are requested.

35 U.S.C. 103(a) Rejections

Claims 1-9, 11-20, 22-23, 32-38, and 40-41 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the combination of U.S. Patent No. 6,622,017 to Hoffman ("Hoffman") and U.S. Patent Application Publication No. 2002/0120519 to Martin et al. ("Martin"). These rejections and their underlying reasoning are traversed.

Independent Claim 1:

With respect to claim 1, the proposed combination of Hoffman and Martin fails to disclose each and every element of claim 1. The Examiner concedes that Hoffman fails to disclose that *the subscription choices are sent to the mobile device over a wireless communication path, the subscription choices are for selection by a user of the mobile device, and the subscription choices comprise choices to initiate or modify a subscription to enable wireless communications over a wireless network* as recited in claim 1. The addition of Martin does not alleviate the deficiencies of Hoffman.

The Examiner contends that Martin teaches the elements of claim 1 missing from Hoffman at ¶¶ [0010], [0091]-[0093], [0098]-[0099], and [0101-0105]. However, the cited portions of Martin do not disclose the elements recited in claim 1. For example, Martin does not disclose *sending the subscription choices to the mobile device over a wireless communication path* as required in claim 1 because Martin is directed to allowing the user to select both **a phone and a service plan** from a terminal. *See* Martin, ¶ [0088]. Martin expressly discloses that "a user may be asked, via the terminal, to specify preference information, such as a desired phone model and/or manufacturer, and/or usage information, such as the user's address or zip code...." *Id.* Therefore, Martin discloses a system for allowing a user to select a phone and a phone plan before the user ever purchases and receives the phone (mobile device). *Id.* at ¶ [0093].

once the user selects a phone and service plan, the user provides payment information, such as credit card information....a printer

associated with the terminal prints out a receipt which the user takes to a store representative, which may be [a] clerk at an in-store pick-up counter. **The store representative retrieves the selected phone from a store storage area and provides the phone to the user.** The phone and associated plan may be activated in response to a directive provided by the store representative on in response to the user calling a predetermined number. (Emphasis added). *Id.*

Further, Martin is directed to allowing the user to select both the desired phone and the phone service using a terminal at a 'brick and mortar' store or by logging onto an e-commerce website though the user's computer. *See* Martin at ¶ [0082]. In Martin, when a user selects the desired phone and the service plan, the selected phone is already configured for the selected service provider offering the selected service. Since the choice of a subscription in Martin is already made before receiving the selected phone, the user cannot send a request from the phone for subscription choices or receive the subscription choices on the phone as required in claim 1. Thus, the system disclosed in Martin cannot reasonably be interpreted as sending *the subscription choices to the mobile device* as recited in claim 1.

For at least these reasons, claim 1 is patentable over the proposed combination of Hoffman and Martin.

Dependent Claims 2-9, and 11-15:

Claims 2-9 and 11-15 depend from claim 1, and thus are patentable over the proposed combination of Hoffman and Martin for at least the reasons set forth with respect to claim 1 above.

Independent Claims 16 and 32:

With respect to claims 16 and 32, the combination of Hoffman and Martin fails to disclose each and every element of claims 16 and 32 for at least the reasons set forth with respect to claim 1 above.

Dependent Claims 17-20, 22-23, 33-38, and 40-41:

Claims 17-20, 22-23, 33-38, and 40-41 depend from claims 16 and 32, and thus are patentable over the proposed combination of Hoffman and Martin for at least the reasons set forth with respect to claims 16 and 32 above.

Claims 24-31 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the combination of Sears and Martin. These rejections and their underlying reasoning are traversed.

Independent Claim 24:

The proposed combination of Sears and Martin fails to disclose each and every elements of claim 24. The Examiner concedes that Sears fails to disclose ***at least one memory storing an address of a server that stores settings data associated with at least one mobile service and storing client software for an application execution environment, wherein the at least one mobile service comprises a service to enable wireless communications over a wireless network*** as recited in claim 24. The addition of Martin fails to alleviate the deficiencies of Sears.

As set forth with respect to claim 1 above, Martin does not disclose sending the subscription service choices to the mobile device for allowing the user to choose a subscription service on the mobile device as required in claim 1. Martin requires the user to select both the phone and the phone service from either a terminal at a 'brick and mortar' store or by logging onto an e-commerce website. *See* Martin, ¶ [0082]. Thus, Martin discloses allowing the user to purchase the selected phone preconfigured for the selected phone service provider or carrier based on the user selection of both the phone and the phone service. And because the phone in Martin already is programmed for the particular service provider, there is no need to store ***an address of a server that stores settings data associated with at least one mobile service*** as required in claim 24.

For at least these reasons, claim 24 is patentable over the proposed combination of Sears and Martin.

Dependent Claims 25-31:

Claims 25-31 depend from claim 24, and thus are patentable over the proposed combination of Sears and Martin for at least the reasons set forth with respect to claim 24 above.

Claims 10, 21 and 39 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the combination of Hoffman, Martin and Sears.

Claim 10:

With respect to claim 10, the proposed combination of Hoffman, Martin, and Sears fails to disclose each and every element of claim 10.

As set forth with respect to claim 1 above, the combination of Hoffman and Martin fails to disclose all elements of claim 1. In addition, the Examiner concedes, as set forth with respect to claim 24 above, that Sears fails to disclose that ***the at least one mobile service comprises a service to enable wireless communications over a wireless network***. Thus, the combination of Hoffman, Martin, and Sears also fails to disclose that ***the subscription choices are sent to the mobile device over a wireless communication path, the subscription choices are for selection by a user of the mobile device, and the subscription choices comprise choices to initiate or modify a subscription to enable wireless communications over a wireless network*** as recited in claim 1. Claim 10 depends from claim 1, and thus is patentable over the proposed combination of Hoffman, Martin, and Sears for at least failing to disclose each and every element of claim 1.

Claims 21 and 39:

Claim 21 depends from claim 16, and thus is patentable over the proposed combination of Hoffman, Martin, and Sears for at least the reasons set forth with respect to claim 16 above.

Claim 39 depends from claim 24, and thus is patentable over the proposed combination of Hoffman, Martin, and Sears for at least the reasons set forth with respect to claim 24 above.

Conclusion

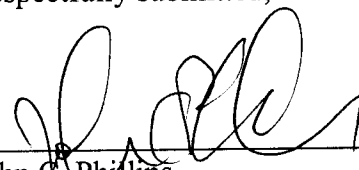
In view of the remarks, all of the claims are in condition for allowance. A formal notice to that effect is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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